

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RODNEY BROWN,)	
)	
Plaintiff,)	
)	Cause No. 4:18-CV-389
v.)	
)	
DONALD J. TRUMP, <i>et al.</i>)	
)	
Defendants.)	
)	

**DEFENDANTS' CITY OF ST. LOUIS'S UNOPPOSED
MOTION FOR LEAVE TO FILE ANSWER OUT OF TIME**

Defendants, City of St. Louis ("City"), under Rule 6(b)(1)(B) of the Federal Rules of Civil Procedure, moves the Court to grant it leave to file an answer to Plaintiffs' First Amended Complaint (Doc. 22) out of time. In support of its motion, Defendant City states as follows:

1. Plaintiff filed his initial complaint on March 8, 2018. (Doc. 1).
2. Defendant City timely filed a motion to dismiss on April 3, 2018. (Doc. 11).
3. On April 17, 2018, the Plaintiff filed his First Amended Complaint. (Doc. 22).
4. On May 1, 2018, Defendant City filed its motion to dismiss, and memorandum in support of that motion the First Amended Complaint on May 1, 2018. (Docs. 27-28).

5. Plaintiff timely filed his opposition to Defendant City's motion to dismiss on May 7, 2018 (Doc. 39).

6. On January 9, 2019, undersigned counsel entered his appearance on behalf of Defendants City, Boettigheimer, Korte, Steiger, and Harden. (Doc. 50).

7. This Court ruled on the Defendants' motion to dismiss on March 12, 2019. (Doc. 55)

8. Defendant City's answer to Plaintiff's First Amended Complaint was due on March 26, 2019. Fed. R. Civ. Pro. 15(a)(3).

9. On July 10, 2019, counsel for Plaintiff contacted undersigned counsel regarding a request for a Rule 16 conference.

10. In reviewing the file and considering Plaintiff's request, undersigned counsel realized that no answer had been filed by Defendant City after the order on the motion to dismiss.

11. Federal Rule of Civil Procedure 6(b)(1)(B) permits a district court to extend the time for a party to submit a filing "if the party failed to act because of excusable neglect." Fed. R. Civ. Pro. 6(b)(1)(B). Excusable neglect is an elastic concept that empowers the court to accept late filings caused by inadvertence, mistake, or carelessness, as well as by other intervening circumstances beyond a party's control. *Chorosevic v. MetLife Choices*, 600 F.3d 934, 946 (8th Cir. 2010) (citing *Pioneer Inv. Serv. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 392 (1993)).

12. Default judgments are not favored under the law. *See Time Equip. Rental & Sales, Inc. v. Harre*, 983 F.2d 128, 130 (8th Cir. 1993). Therefore, a district court does not abuse its discretion when it permits a party to file an answer out of time when the answer was not timely filed due to inadvertence and oversight, and its untimely filing would not prejudice any other party. *Chorosevic*, 600 F.3d at 946-47 (8th Cir. 2010).

13. Defendant City has meritorious defenses to Plaintiffs' claims. In particular, Defendants contest that Plaintiff's rights were violated or that any violation of Plaintiff's rights that may have existed was part of a widespread or persistent pattern of misconduct of which Defendant City was aware.

14. Defendants' failure to timely file an answer to Plaintiff's First Amended Complaint has not prejudiced Plaintiff in any way. Defendant City timely filed motions to dismiss in lieu of an answer to both the original and First Amended Complaint.

15. Defendants' proposed answer is attached to this motion as Exhibit A.

16. Given the foregoing, Defendants request the Court to grant leave to file their answer out of time to Plaintiff's First Amended Complaint.

17. Counsel for Defendants has communicated with counsel for Plaintiff, and counsel for Plaintiff has indicated that Plaintiff does not object to the relief requested by Defendants in this motion.

WHEREFORE, Defendant City of St. Louis respectfully requests the Court to grant it leave to file its answer to Plaintiff's First Amended Complaint out of time, and grant it any such other and further relief the Court deems fair and appropriate. Respectfully submitted,

JULIAN BUSH
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CERTIFICATE OF SERVICE

I hereby certify this Entry was electronically filed on this 12th day of July 2019 with the Court for service by means of Notice of Electronic Filing upon all attorneys of record.

/s/ Brandon Laird
Brandon Laird
Assistant City Counselor